IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Bail Appl..No. 6133 of 2007()

CRIME NO. 242/98 OF PONNANI POLICE STATION
SC.260/2000 of SESSIONS COURT, MANJERI

.....

PETITIONERS/2ND ACCUSED:

ALLIAMAKKANAKATH ABDUL SALEEM,
S/O. ABDULLA, PONNANI NAGARAM P.O., PONNANI AMSOM,
DESOM, MALAPPURAM DISTRICT.

BY ADV. SRIC.M.MOHAMMED IQUABAL

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 6133 of 2007

- -

Dated this the 9th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations for offences punishable, inter alia, under Section 307 I.P.C. The petitioner was arrested and was enlarged on bail at the pre-committal stage. After committal he did not appear before the learned Sessions Judge. The case against him has been split up and the same pending as S.C. 260 of 2000. The petitioner now finds a warrant of arrest issued by the learned Sessions Judge chasing him.

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Sessions Judge and seek bail. But he apprehends that his application for bail may not be considered by the learned Judge on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Sessions Judge to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Sessions Judge and explain to the learned Judge the circumstances under which he could not earlier appear before the learned Judge. I have no reason to assume that the learned Sessions Judge would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Judge, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Sessions Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Judge must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

tm